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PAPER NO. 8

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OFFICE OF PETITIONS

In re Application of :
Jeffrey J. GOLD et. al : ON PETITION
Application No. 09/597,705 :
Filed: June 16, 2000 :
Atty. Docket No.: PD-990259

This is in response to the communication filed December 14, 2005 with a certificate of transmission dated June 22, 2004, to withdraw the holding of abandonment of the above-identified application, which is being treated as a petition under 37 CFR 1.8(b). The Office regrets the delay in responding to the petition.

The petition is **GRANTED**.

Petitioner requests the Notice of Abandonment mailed May 28, 2004 for failure to respond to the non-final Office action mailed August 28, 2003 be withdrawn as petitioner timely filed a response. Petitioner has included (a) copy of the facsimile transmission sheet; (b) certificate of transmission by facsimile on November 25, 2003, and (c) copy of the response filed by facsimile on that date.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of August 28, 2003 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on November 25, 2003.

Telephone inquires regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

This application file is being referred to Technology Center Art Unit 2123 for appropriate action in the normal course of business on the reply received with petition.

Ramesh Krishnamurthy

for Anthony Knight
Director
Office of Petitions